

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:

AARON N. FOSTER

BKY Case No. 04-41638 NCD

Chapter 13

Debtor(s).

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**NOTICE OF HEARING AND  
MOTION FOR DISMISSAL**

Michael J. Farrell, Chapter 13 Trustee, hereby moves to dismiss the above-entitled Chapter 13 case.

1. The Court will hold a hearing on this motion at 10:00 a.m. on September 2, 2004 in Courtroom 7 – West 7<sup>th</sup> Floor, 300 South 4<sup>th</sup> Street, Minneapolis, Minnesota, 55415.
2. Any response to this motion must be filed and delivered not later than 10:00 a.m. on August 30, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than August 24, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. The Debtor commenced this case by filing a voluntary Chapter 13 petition on September 12, 2000. This case is pending before this Court.
4. The Court has jurisdiction pursuant to 28 U.S.C. § § 157 and 1334. This motion is brought pursuant to 11 U.S.C. §1307, Bankruptcy Rule 1017 and Local Rule 1017.
5. The Debtor has failed to make payments to the Trustee as outlined in the proposed Plan. To date, the Debtor has made no payments to the Trustee. The Debtor is currently three (3) months in default totaling \$3279.00. This amount does not include any payments that may come due between now and the time of the hearing

**WHEREFORE**, the Trustee requests an order as follows:

- (A) Dismissing the above entitled Chapter 13 case; and
- (B) Granting any other relief the Court deems just and proper.

Dated: August 19, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Standing Trustee  
PO Box 519  
Barnesville, MN 56514  
(218) 354-7356

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The undersigned, being an employee of the standing Chapter 13 Trustee, declares that on the date indicated below, I served the following:

Notice of Hearing and Trustee's Motion to Dismiss  
and Unsworn Declaration of Proof of Service

Upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at Barnesville, Minnesota, addressed to each of them as follows:

**Debtor(s):**

AARON N. FOSTER  
26295 150<sup>TH</sup> ST.  
ZIMMERMAN, MN 55398

**Debtor's Attorney:**

ROBERT J. HOGLUND  
HOGLUND, CHWIALKOWSKI, GREEMAN  
& BERGMANIS, PLLP  
PO BOX 130938  
ROSEVILLE, MN 55113

**Additional Copy(s) addressed to:**

UNITED STATES TRUSTEE  
1015 U.S. COURTHOUSE  
300 W. 4<sup>TH</sup> ST.  
MINNEAPOLIS, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: August 19, 2004

/s/ Belinda D. Kurtz  
Belinda D. Kurtz  
Chapter 13 Office

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This matter came before the Court on September 2, 2004 at 10:00 a.m., or as soon thereafter as could be heard, on a motion by the Chapter 13 Trustee to dismiss this case. The appearances are as noted on the record. The court made its findings and conclusion on the record. Based on the Local and Federal Rules of Bankruptcy Procedure, it is

HEREBY ORDERED:

That this Chapter 13 Case is dismissed.

Dated: \_\_\_\_\_

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Judge Nancy C. Dreher  
U.S. Bankruptcy Judge